

# Notice of Allowability

Application No.

10/772,599

Examiner

S. Devi, Ph.D.

Applicant(s)

KENDE ET AL.

Art Unit

1645

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' amendment filed 03/21/05.
2. ☒ The allowed claim(s) ~~is/are~~ 16, 17 and 35-40, now renumbered as claims 1, 2 and 3-8 respectively.
3. ☒ The drawings filed on 02/05/04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other Attachment.

## **ATTACHMENT TO NOTICE OF ALLOWABILITY**

### **Applicants' After-final Amendment**

- 1) Acknowledgment is made of Applicants' after-final amendment filed 03/21/05 in response to the final Office Action mailed 01/21/05.

### **Examiner's Amendment**

- 2) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The authorization to prepare this Examiner's amendment was provided by Mr. Edwin Merkel in a telephonic interview on 06 April 2005.

This application has been amended as indicated below:

(a) To be consistent with the limitation supported at lines 3 and 4 of page 29 of the specification, the limitation 'specifically' in line 4 of claim 16 is replaced with the limitation -- immunospecifically-- and the limitation 'binding' in the last line and line 3 of the claim from the bottom with the limitation --immunospecific binding--.

(b) In lines 2 and 3 of claim 40, the improper Markush recitation: 'selected from the group consisting of ..... or ..... ' is replaced with the limitation: -- selected from the group consisting of ..... and .....--.

### **Status of Claims**

- 3) Claims 18-25 have been canceled via the amendment filed 03/21/05.  
Claims 16 and 17 have been amended via the amendment filed 03/21/05.  
New claims 35-40 have been added via the amendment filed 03/21/05.  
Claims 16, 17 and 35-40 are pending and are under examination.

### **Objection(s) Withdrawn**

- 4) The objection to claim 16 made in paragraph 16 of the Office Action mailed 01/21/05 is withdrawn in light of Applicants' amendment to the claim.

### **Rejection(s) Withdrawn**

- 5) The rejection of claim 16 made in paragraph 9(b) of the Office Action mailed 09/09/04 and

maintained in paragraph 12 of the Office Action mailed 01/21/05 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

6) The rejection of claim 16 and the claim dependent therefrom made in paragraph 13 of the Office Action mailed 01/21/05 under 35 U.S.C. § 112, first paragraph, as containing new matter, is withdrawn in light of Applicants' amendment to the claim.

7) The rejection of claim 16 and the claim dependent therefrom made in paragraph 14 of the Office Action mailed 01/21/05 under 35 U.S.C. § 112, first paragraph, as containing new matter, is withdrawn in light of Applicants' amendment to the claim and Applicants' arguments.

8) The rejection of claim 16 made in paragraphs 15(a) and 15(b) of the Office Action mailed 01/21/05 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

9) The rejection of claim 17 made in paragraphs 15(c) and 15(d) of the Office Action mailed 01/21/05 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

### **Remarks**

10) Claims 16, 17 and 35-40, now renumbered as claims 1, 2 and 3-8 respectively, are allowed.

The term 'immunospecific binding' now used in claim 16 has descriptive support at line 25 on page 28 of the instant specification.

11) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Fax number for submission of amendments, responses or papers is (571) 273-8300.

12) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

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direct.uspto.Mov. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**13)** Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

April, 2005

  
S. DEVI, PH.D.  
PRIMARY EXAMINER